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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in Myanmar

Report of the Special Rapporteur, Mr. Rajsoomer Lallah, submitted in accordance with Commission on Human Rights resolution 1998/63

CONTENTS

	Paragraphs	Page
Introduction	1	2
I. ACTIVITIES OF THE SPECIAL RAPPORTEUR	2 - 7	2
II. THE EXERCISE OF CIVIL AND POLITICAL RIGHTS	8 - 24	2
A. Measures adversely affecting democratic governance	8 - 19	2
B. Prison conditions	20 - 24	6
III. MISSION TO THAILAND	25 - 72	7
A. The problem of displacement	27 - 29	8
B. The main cause of displacement	30 - 53	8
C. Patterns and consequences of displacement	54 - 72	12
IV. CONCLUSIONS AND RECOMMENDATIONS	73 - 83	16
A. Conclusions	73 - 79	16
B. Recommendations	80 - 83	17

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Introduction

1. The present report is submitted pursuant to paragraph 5 of Commission on Human Rights resolution 1998/63, adopted without vote on 21 April 1998, in which the Commission on Human Rights requested the Special Rapporteur to submit a report at its fifty-fifth session.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

2. The Special Rapporteur wishes to recall that, since his appointment in June 1996, he has yet to be allowed by the Government of Myanmar to see the situation on the ground, despite the repeated requests of the General Assembly and the Commission on Human Rights that he have direct access to the Government and people of Myanmar.

3. In the meantime, the Special Rapporteur, through his missions and consultations, has received much assistance and information from governmental, intergovernmental and non-governmental sources. He has further received information from individuals who have personal knowledge of the situation in Myanmar. He has also received several well-documented reports describing the situation in Myanmar, particularly in relation to the matters over which the General Assembly and the Commission on Human Rights have expressed concern.

4. The Special Rapporteur submitted an interim report (A/53/364, annex) to the General Assembly at its fifty-third session.

5. While at Headquarters to present his report, the Special Rapporteur met with several representatives of Governments and non-governmental organizations and also private individuals who imparted their views and information on the situation of human rights in Myanmar.

6. In his continuing effort to obtain the most accurate and up-to-date information on the situation of human rights in Myanmar, the Special Rapporteur visited Thailand in December 1996 to assess that situation in the light of information gathered from newly displaced persons from Myanmar living in refugee camps along the Thai-Myanmar border. The findings of the mission are reflected in section III of this report.

7. The present report is based upon information received by the Special Rapporteur through 31 December 1998. The report is to be read in conjunction with the Special Rapporteur's report to the General Assembly; it updates certain matters discussed before the General Assembly while treating some issues not addressed there.

II. THE EXERCISE OF CIVIL AND POLITICAL RIGHTS

A. Measures adversely affecting democratic governance

8. In his report to the fifty-first session of the General Assembly (A/51/466), the Special Rapporteur stated that the repressive political climate in Myanmar since 1990 had made it virtually impossible for opposition parties to function and they had been severely hampered through constant repression and arrests, with a number of members of Parliament in prison and

others in exile. Two years later, the Special Rapporteur continues to receive reports indicating that in Myanmar political parties in opposition continue to be subjected to intense and constant harassment by the regime with a view to restricting their activities.

9. This harassment and the arrests increased during September 1998 when 200 representatives of the National League for Democracy (NLD) and elected representatives from various constituencies and more than 650 party members were arrested by the authorities following NLD's attempts to convene a parliament comprising representatives of the country's various ethnic groups in accordance with the results of 1990 general election.

10. On 6 October 1998, the United Nations High Commissioner for Human Rights issued a press release in which she stated the following:

> "I have been following with increasing concern the intensification of repression against Myanmar's political opposition over the last few weeks. Recently, over 200 members of the National League for Democracy (NLD) have been arrested or detained, while NLD leader Aung San Suu Kyi has been subjected to repeated harassment. Further, conditions of detention in the country fall far short of international standards, and a number of prisoners are reported to have died while in custody.
>
> "It is clear from the Commission of Inquiry established by the International Labour Organization that forced labour continues in Myanmar. Meanwhile, there also appears to be an official policy of forced displacement of ethnic minorities, which has resulted in large numbers of internally displaced and refugees in neighbouring countries.
>
> "I raised these issues with the Foreign Minister of Myanmar, U Ohn Gyaw, during a meeting in New York on 23 September but received no satisfactory response. I take this opportunity to call on the Government of Myanmar to guarantee the rights of freedom of movement and association of all citizens and to accelerate the process of national reconciliation leading to the enjoyment of all human rights. I hope the people arrested or detained for political reasons will be released and allowed to express freely their views and opinion and demonstrate peacefully.
>
> "I urge the Government to establish a constructive dialogue with the United Nations system, including the human rights mechanisms, in the effective promotion and protection of human rights in the country. Regrettably, the authorities have failed to respond to consistent requests to allow the Special Rapporteur on the situation in Myanmar, Rajsoomer Lallah, to conduct a field mission. I reiterate my support for Mr. Lallah's efforts to fulfil his mandate and again request the Government to cooperate with him and allow him to have direct contacts with the people of Myanmar."

11. On 7 October 1998, one day following the High Commissioner's statement, the State Peace and Development Council (SPDC) continued its policy of restricting the legitimate activities of members of political parties by arresting 54 NLD members. According to a statement made the same day by

Myanmar authorities, the 54 persons were distributing leaflets calling for the convening of the parliament and support for the NLD. According to the authorities, these groups were also in collusion with illegal organizations within the country and abroad.

12. On the same day, the High Commissioner for Human Rights issued a second statement stating the following:

> "The latest detentions of opposition activists in Myanmar are very worrying, indicating that the Government continues to ignore basic human rights standards and the concern of the international community.
>
> "Yesterday I deplored the intensifying wave of repression against Myanmar's political opposition. I reiterate in the strongest possible terms my call to the Government of Myanmar to release all political prisoners and to guarantee its citizens all fundamental human rights. I also urge the Government to undertake a process of reconciliation with the opposition and to cooperate fully with the human rights mechanisms of the United Nations."

13. On 23 October 1998, the Chairman-Rapporteur of the Working Group on Arbitrary Detention together with the Special Rapporteur on torture of the Commission on Human Rights addressed a letter to the Minister for Foreign Affairs of Myanmar in which they referred to the specific case of Dr. U Saw Mra Aung. The letter states the following:

> "We wish to draw Your Excellency's attention to information we have received concerning the situation of Dr. U Saw Mra Aung, an 80-year-old medical doctor and an elected member of Parliament, who was allegedly arrested on 6 September 1998. In view of his old age, the source is particularly concerned about his health while in detention. It is also reported that on 7 October 1998, the State Peace and Development Council announced that 54 people had been arrested in connection with a conspiracy to 'incite unrest' by members of the National League for Democracy and students said to be allied with foreign organizations. It is alleged that some of those detained before the 7 October press conference were severely beaten during interrogation, and that they may not be receiving such medical assistance as they might require as a result."

14. On 3 December 1998, the Permanent Representative of Myanmar to the United Nations Office at Geneva responded to the letter by stating the following:

> "I have since been informed by the authorities concerned in Myanmar that the person under reference in your communication, Dr. Saw Mra Aung, was not arrested as alleged. He is comfortably accommodated at the government guest house where he is accorded due courtesy and respect. Dr. Saw Mra Aung has unlimited access to his family. On 26 October 1998 and again on 10 November 1998 he was chauffeured to his residence for overnight reunions with his family."

15. Myanmar officials claimed in numerous interviews and press statements that the elected members of Parliament and other NLD members were not arrested but were instead called for questioning and were treated as guests in government gust houses. In a news briefing held in Yangon on 22 November 1998, Lieutenant Colonel Hla Min stated that "arrangements were made for NLD party members and elected representatives from various constituencies to take up temporary residence at State guest houses in their respective areas from 6 September onwards. A total of 200 NLD representatives and 651 party members were included in these arrangements."

16. According to the same article, 63 NLD representatives and 321 party members who undertook not to participate in such "illegal activities" were returned to their homes. However, the Special Rapporteur has no information on the fate of the remaining over 400 NLD representatives and party members, their place of custody and health situation.

17. Since November 1995, when the NLD leaders withdrew from the National Convention, there has been increasing harassment of the party by the military regime, including arrests of hundreds of party members over the last six months. In December 1998, almost all of the members of the organizing committees in the states, divisions, townships, wards and villages have been taken into custody illegally for no apparent reason and they are unable to fulfil their obligations and duties. Most of these elected parliamentarians have added responsibilities as either chairman or secretary of the organizing committees in the townships. The Special Rapporteur observes that the SPDC is illegally arresting and detaining numerous members of the NLD, including elected representatives who have in no way violated any law. The Special Rapporteur further wishes to note that keeping people in so-called "guest houses" against their will or under the threat that their detention will continue unless they desist from political activities or abandon membership of the party or of their seat in Parliament is no more than a euphemism for arbitrary imprisonment in violation of article 9 of the Universal Declaration of Human Rights, as more fully elaborated in article 9 of the International Covenant on Civil and Political Rights.

18. Aside from the arbitrary arrests, NLD members have been subjected to intense and systematic harassment. It is reported that over the last six months, members of the party have been constantly intimidated by local authorities as well as by armed forces personnel. Their houses are under constant surveillance. Many members of political parties have reportedly been evicted from State-owned apartments where they had lived for many years. The harassment of the NLD and the pressure under which its members are living have led some of them to resign. Such resignations are publicized in the Government-controlled newspaper, New Light on Myanmar. As a further form of harassment, a concerted effort was made by local authorities to remove all signs of an NLD presence on main roads or at any place where they might be exposed widely to the public. As a result of all these repressive measures, virtually all the branch offices are closed.

19. The resignations of NLD members and closures of NLD offices are widely disseminated in the media, in terms that are almost identical in nature and matter except for the particulars regarding the address, department, and number of people. The following are some examples:

"It has been learned that the entire township Executive Committee [EC] and members of the National League for Democracy [NLD] party of Ponnagyun Township [in Arakan State] have resigned and the township branch of the NLD was dissolved at their own request on 16 October 1998."

Source: Rangoon TV Myanmar Network in Burmese, 1330 GMT, 11 November 1998.

"It has been learned that the Executive Committee [EC] members and all members of Minbya Township National League for Democracy [NLD] in Arakan State have tendered their resignations and dissolved the township NLD out of their own volition on 11 November 1998."

Source: Rangoon TV Myanmar Network in Burmese, 1330 GMT, 25 November 1998.

"All members of the Executive Committee [EC] of the National League for Democracy [NLD] in Kyunhla Township, Sagaing Division, have resigned of their own volition and disbanded the NLD office in Kyunhla on 27 November [1998]."

Source: Rangoon TV Myanmar Network in Burmese, 1330 GMT, 3 December 1998.

"All Executive Committee [EC] members of Mong Yawng Township National League for Democracy [NLD] in Eastern Shan State resigned from the party and the township office of the NLD was dissolved on 30 November."

Source: Rangoon Radio Myanmar in Burmese, 1330 GMT, 9 December 1998.

B. Prison conditions

20. The current Special Rapporteur has not been able to visit Myanmar. Given the fact that the former Special Rapporteur was denied access to prison cells and could not meet with any detainee while visiting Myanmar, and given the fact that the Government of Myanmar rejected the International Committee of the Red Cross (ICRC) standard requirements for visits to places of detention (i.e. that it meet prisoners in private, have access to all prisons and be assured of repeat visits), the Special Rapporteur can only rely on the complaints of former detainees such as those with whom he met while in Thailand in the course of his recent visit. The testimonies gathered from three former detainees strongly indicate that Myanmar authorities are unwilling to open their jails to public scrutiny and that prison conditions fall far below minimum international standards established by the United Nations.

21. Prisoners are said to be denied adequate food (in amount and quality) and health care, to be housed in unsanitary and degrading conditions and subjected to cruel disciplinary practices or torture.

22. Numerous allegations, often in considerable detail, have been received alleging that members of the Myanmar military, intelligence and security services and police continue to torture persons in detention or otherwise subject them to cruel, inhuman or degrading treatment and punishment. Such treatment seems to be routinely employed during the interrogation of persons who have been arbitrarily arrested. Many former political detainees testified to having been put into leg irons and beaten with canes, sometimes to the point of unconsciousness. Testimonies from reliable sources indicate that detainees are very often forced to sleep on cold cement, and that many of them suffer from sickness and serious diseases. Cells are often overcrowded and prisoners are provided with inadequate hygiene or medical care.

23. Bribery and corruption are said to be a major problem in Myanmar prisons. Although families can bring food and medicines to their relatives, such supplies are reportedly often confiscated by the prison authorities.

24. The Special Rapporteur was told that hundreds of prisoners have been forced to work under extremely harsh conditions on infrastructure projects without being released at the completion of their duties. It has also been alleged that convicts are taken from prison to serve as porters, often shortly before their sentences are to expire, and then forced to work under very poor conditions long after they should have been released from prison. Apparently, prisoners can avoid going to such camps if they pay large bribes to the prison authorities. Persons released from prison stated that during their detention they were not allowed to have any reading material, including the State-run newspaper, or material with which to write, or non-political literature; they were reportedly also denied access to radios.

III. MISSION TO THAILAND

25. The Special Rapporteur has previously addressed the situation in the ethnic minority States, especially those along the Myanmar/Thai border, in his reports to the General Assembly (A/51/466, annex, paras. 37-51 and A/52/484, annex, paras. 69-142) and to the Commission on Human Rights (E/CN.4/1997/64, paras. 65-100). His initial concern related to reports of military attacks and looting on civilian settlements, forced relocation of the ethnic groups, forced labour for development and industrial projects and portering for military operations. In his last report to the Commission on Human Rights, the Special Rapporteur called upon the Government of Myanmar to take immediate steps in order to put an end to the forced displacement of persons, to prohibit the practice of forced labour and forced portering and to prevent arbitrary killings, and confiscation of property in the ethnic minority areas.

26. The Special Rapporteur visited Thailand in order to inquire into the current situation of the displaced persons on the border of Myanmar with Thailand, and on the human rights violations committed against ethnic minorities and others who had been subjected to various forms of repression by the Government. The itinerary of the Special Rapporteur included Bangkok, Kanchanaburi, Mae Sot, Chiang Mai, Mae Hong Son and camps in the Tak province with large populations of displaced persons. During these visits he was received by representatives of the Thai authorities and met with representatives of international non-governmental organizations and representatives of several ethnic groups. During his visit, the Special

Rapporteur received the testimonies of a total of 50 persons selected from among newly arrived persons from Myanmar, mostly Karen, Shan and Karenni. The information and views obtained in the course of his visits are reflected below under the relevant subject headings.

A. The problem of displacement

27. Internal displacement in Myanmar represents a particular case of human tragedy resulting from conflict between the Government and different ethnic groups. It is estimated that over half a million displaced persons, living in Mon, Karen, Shan and Karenni States, are in need of humanitarian assistance. Since the independence of Myanmar in 1948, the country has suffered from unresolved conflicts between most of the ethnic minorities and the central authorities in spite of a number of ceasefire agreements. These conflicts precipitated insurgencies in several parts of the country which have resulted in large numbers of internally displaced persons and a considerable number who have sought refuge in neighbouring countries, particularly Thailand, Bangladesh and India.

28. The Special Rapporteur is not in possession of independently verified statistics on the number of displaced persons in Myanmar, but local and international NGOs estimate the number in Karen State to be between 100,000 and 200,000. 1/ Unofficial estimates place the current number in Shan State to be over 300,000 2/ and in Karenni State, 70,000. Finally, there are reportedly about 40,000 persons displaced in Mon State.

29. By the end of June 1998, the refugee camp caseload of displaced persons from Myanmar living in Thailand was 112,841. 3/ The breakdown by ethnic group was as follows: 86,823 Karen, 12,665 Mon, 13,353 Karenni. 4/ In addition, there were a number of Shan displaced persons who were not living in refugee camps but were scattered mainly throughout the north of Thailand. It is generally believed that tens of thousands of people from Myanmar have entered Thailand during the last three years.

B. The main causes of displacement

30. The problem of displacement in Myanmar is complex and open to so many different interpretations that a comprehensive assessment is difficult. The causes of displacement are numerous and differ from one region to another, although certain common features and trends can be discerned.

31. The role of the army, in this context, is paramount. Since independence, it has exercised a strong influence over the governing of the ethnic states. Many Karen, Karenni and Shan do not perceive the army as a national army, and soldiers, particularly ethnic Burmese, generally behave towards the local population as if they were enemies.

32. Violence against civilians would appear to have been a fundamental component of the overall military strategy of the Myanmar army. That strategy is designed first to secure resources from the local population, in particular food, combatants and workers, and second to weaken the resource base of insurgent groups and their capacity to govern. To this latter end, the army

not only has undertaken systematically to destroy most of the villages but also, as the local economy is largely based on agriculture, forcibly to displace the rural population so as to disrupt agricultural production.

33. In flagrant violation of the basic rules of humanitarian law, civilians living in rural settlements have been attacked. In some cases, this has resulted in massacres, in others in disorderly flight to safety, often separating families. Those who are captured are often subjected to rape and arbitrary killing, or are held captive to grow food for the army, or made to provide forced labour or portering for the army.

34. After these general observations, it is appropriate to specify the main causes of displacement. These are counter-insurgency operations, forced labour and portering restrictions on farmers and land confiscation. Each is discussed separately below. Displacement is also attributed to major development projects undertaken by the Government in the process of which large numbers of persons are removed from the lands designated for the projects without being assisted in relocation or being appropriately compensated.

1. Counter-insurgency operations

35. Counter-insurgency operations by the army have had an important impact on the displacement of the population, both with regard to the number of persons displaced and the methods employed. These operations have also contributed to the massive uprooting of the rural population by deliberately relocating large numbers of civilians from numerous villages as part of the military strategy against the insurgents. Despite a number of ceasefire agreements signed by the Government and representatives of ethnic groups, the army is still engaged in counter-insurgency operations in Karen, Shan and Karenni States.

36. Although the practice of forced relocations by the military as a means of controlling the population in the ethnic regions is not new, the scale of the relocations increased significantly after 1996. The victims of displacement are mostly peasants, including members of ethnic groups such as the Karen, Karenni, Shan and Mon, who live in areas of insurgency and are victimized by counter-insurgency activities or are caught in the crossfire between the army and the insurgents.

37. Numerous testimonies received by the Special Rapporteur indicate that the civilian population living in or near the combat zone is generally forced to move: in these "grey zones" (zones controlled or influenced by the insurgents) the armed forces often resort to searches, destruction and burning of houses, and confiscation of property and food to force the people to move, temporarily or permanently. Testimonies indicate that no distinction between insurgents and non-combatants is generally made and that the inhabitants of these zones are subjected to indiscriminate torture, beatings and arbitrary arrests by the army.

38. In order to cut the main links between the insurgent groups and the civilian population, entire communities living in the border area between

Myanmar and Thailand are moved to relocation sites which are subject to strict military control. Expulsion orders are issued by the army coupled with the warning that anyone trying to remain in their homes will be shot on sight.

39. The following information provided to the Special Rapporteur is illustrative of the widespread recourse to forced relocation and the consequent violation of most basic rights. Central Shan State has witnessed one of the largest forced relocation programmes, which still continues. From March 1996 the army has ordered village after village in eight townships (Larng Kher, Murng Nai, Nam Zarng, Lai Kha, Murng Kerng, Kun Hing, Ke See and Murng Su) to move to a total of 45 relocation sites. The estimated number of people relocated is over 100,000 from over 600 villages. When relocated, the population is left to fend for itself to find work, food and sanitary and education facilities. In Karenni State, throughout June and July 1996, orders were given to more than 100 villages located between the Pon and Salween Rivers instructing villagers to move to relocation sites near army camps in Sha Daw and Ywa Thit townships. The estimated number of people affected was 20,000-30,000, most of them ethnic Karenni. The army's purpose is apparently to isolate the population in that area from Karenni insurgents of the Kayinni National Progressive Party (KNPP). Army officers are reported to have warned that those who remained in the deserted villages would be considered insurgents or "enemies".

40. In addition to displacement caused by deliberate action, many persons are said to have left for fear of being attacked when the military fronts move close to their places of residence. To avoid losing their homes and sources of livelihood, many communities have resisted displacement as long as possible and have developed different strategies for survival. Several displaced persons living in camps in Thailand described to the Special Rapporteur how people in their village would hide in the forest and return when it was safe to tend to their farms. As the situation worsened, many families fled the village. Since fighting was spreading to different parts of the district, they did not know where to go to find shelter and after one week they returned. The village was finally attacked and the houses destroyed.

2. Forced labour and portering

41. The second reason has to do with the particular phenomenon of forced conscription of civilians into compulsory labour duties for the military authorities. No pay is given for such labour and the period of service can last for months. This practice disrupts family life and prevents people from carrying on their daily work in order to earn a living.

42. The Special Rapporteur received reports that villagers throughout Shan State are being forced by the SPDC to work without payment. The people most seriously affected are those who have been forcibly relocated, as they have been forced to leave their land and become wage labourers and thus cannot afford to work without pay for the military.

43. It is common practice for the military to force villagers to go and work on military bases, either for constructing or maintaining barracks, bunkers or fences, or performing menial tasks like cleaning, weeding, and fetching firewood or water. Even children are forced to do this kind of work:

on 29 May 1998, SPDC troops are reported to have forced 10-15 boys between the ages of 14 and 16 to work at the military bases of LIB 524 and IB 246. They were not fed, and were even beaten up by the soldiers.

44. The Special Rapporteur has received reports that villagers are being forced to grow food for the army. In June 1998, villagers in Kengtung are reported to have been forced by the SPDC to grow chili peppers, beans and garlic on land that was confiscated from them. And on 11 July, SPDC base LIB 102 apparently ordered the civilian population to provide labourers for weeding soya bean and corn farms owned by the military in Murng Pan. Ten persons from each village, from some 15 villages each day, had to bring their own food and tools. Villagers of Kengtong, Murng Nai, said they had been forced in September 1998 to plant yellow beans for the army, then tend the plots and do weeding and fencing for troops at local bases.

45. Throughout 1998, The Special Rapporteur received reports of villagers from Murng Pan, Larng Khur, Murng Nai, Murng Ton and Nam Zarng being forced to work for the army for periods of up to two weeks splitting rocks near the Salween River crossing of Ta Sarng in Shan State. The battalions concerned were IB 225, IB 64, IB 65 and LIB 333. The rocks were conveyed by the army to big cities like Yangon where they were sold for 12,000-15,000 kyats per truckload.

46. Since 4 July 1998, villagers from the Kengtong area are reported to have been forced to drive their oxcarts to carry teak lumber from Kengtong to the SPDC military base of IB 43 at Kunhing. During July and August 427 oxcarts were used.

47. Since April 1998, villagers in 21 villages in the Nam Kham area of Northern Shan State, bordering on China, are reported to have been forced to work on a dam over the Nam Mao River.

48. Throughout 1998, the SPDC military are reported to have been taking porters from the main towns throughout central and southern Shan, where the Shan resistance is operating. The SPDC had been sending out regular military patrols from its bases around the area, each time demanding groups of porters from the civilian population. The households provided porters on a rotation basis, and if someone could not go, they were made to pay 8,000-10,000 kyats to hire a replacement.

3. Restrictions on farmers

49. Because of the massive displacement of the population, farming has apparently been drastically reduced. This has led to food shortages among the rural population generally and has provoked voluntary displacement to other areas in search of assistance and security.

50. The army is reported to be increasingly placing restrictions on the kinds of crops grown by the local farmers, forcing them to grow crops for the troops which they will either consume themselves or sell. On 4 May 1998, in Murng Pan, IB 66 is reported to have ordered farmers to grow no more than a small amount of garlic, whereas farmers had traditionally grown this crop for export to Thailand. They were told they had to grow soya beans for the army

instead. On 23 June, IB 286 in Kaesee told villagers from Murng Nawng and Murng Nang (who had been forcibly relocated) that they needed licences to grow rice and if licenced, they had to give half their rice crop to the army. If they had no licence, their rice fields would be confiscated. On 2 July, SPDC IB 99 in Larng Khur is reported to have ordered all sugarcane farmers to clear two thirds of their sugarcane farms and grow soya beans and yellow beans for the army instead. One farmer who had apparently been granted permission to continue farming as usual was reported to have been beaten, kicked, tortured and then shot to death on 3 August 1998. In September, the villagers of Kengtong, Murng Nai, were said to have been forced to cultivate yellow beans for the SPDC troops at local bases.

4. Land confiscation

51. Another important cause of displacement relates to land confiscation. The majority of the population lives by agriculture. Farms tend to be small and constitute the only income for families. Moreover, land is culturally part of a person's identity. The Special Rapporteur was told that very few legal titles to land exist. This permits the military to confiscate the land that had traditionally belonged to peasants and farmers living in Karenni, Karen and Shan States and to redistribute it to military officials and soldiers.

52. Since June 1998, the authorities are reported to have issued orders for the confiscation from the people in Tachilek of 1,000 acres of land stretching along the Tachilek-Kengtung main road. The confiscated land has been bulldozed, divided into small patches and sold to those who can afford it. People from nine villages have been affected. On 4 June 1998, the Golden Triangle Military Command Commander ordered LIB 422 to confiscate 13 plots of land and rice fields owned by villagers of King-Ka in Zone 2 in Kengtung to expand the military base. The villagers were given a small plot of land each to build a house on, but they had to buy it. They were still forced to pay their rice quota to the SPDC even though their land had been taken from them.

53. While development and industrial projects such as railway construction, and the creation of tourist attractions are being carried out in areas inhabited by minorities, many people are having their lands confiscated without any compensation and are forced to move to designated sites.

C. Patterns and consequences of displacement

54. The Special Rapporteur has ascertained from his contacts with those who have sought refuge in the camps on the Thai side of the Thai-Myanmar frontier that since 1996, there are two distinct categories of internally displaced persons in the ethnic States: the "displaced" and "dispersed". The first category consists mostly of families who were forced to go to relocation sites or army camps, while the second category includes persons who instead fled to the mountains or the jungle, trying to avoid the main roads and to hide from the military. It is much more difficult to identify the dispersed, since they are not concentrated in a group but are literally dispersed throughout the country. While visiting the camps, the Special Rapporteur spoke with both

categories of displaced persons who subsequently fled to Thailand, and in the context of the present report the term "internally displaced" implies both categories.

55. Testimonies received by the Special Rapporteur, as well as observations made by representatives of non-governmental organizations, indicate that the victims of displacement are mostly villagers and farmers who were living in remote areas of Karen, Shan and Karenni States. Most of them have not been officially registered and do not possess any identification cards or other documents.

56. Cases of forced evictions seem to occur with great frequency and as a matter of policy. All the people interviewed by the Special Rapporteur stated that they were given at most one week's notice to move and were told that they would be shot if they did not comply. They were forced to leave their land, their crops and most of their animals. Much of the property was reportedly immediately stolen or confiscated by the army. In some cases, there was adequate time to prepare for departure, so that families or even entire communities could leave together. If not, or if attacked, they had to flee in a disorderly manner, sometimes with the husband, wife and children going in different directions.

57. The internally displaced persons in Myanmar rarely flee in large numbers. They usually move in small groups of a few families or individuals. The areas of expulsion are numerous and spread throughout the country, including in the border areas with Thailand. The displaced's own perceptions of where food and security might be found are determining factors in deciding upon the destination of their flight. The displaced usually move to neighbouring rural areas or to the jungle; others go directly to relocation sites and from there to camps located in Thailand, or directly to Thailand where they often join relatives or friends from the same area. In this regard, the Special Rapporteur was often told during the mission that the army is planting landmines in order to prevent the population from using the routes which take them to their paddy fields or to the Thai border. According to information received, each battalion in the front-line area (along the Myanmar-Thai border) was issued with about 200 landmines and ordered to plant them.

58. The two main considerations which led people to flee were security concerns and the need to have a source of livelihood. These could at times be contradictory concerns. On the one hand, fear of losing one's land constituted a motive for staying if the harvests were sufficient, while on the other hand, fear of attacks was a motive for departing. Conversely, the need to find a source of subsistence had to be weighed against the fear of being caught by the army after having been ordered to move to a relocation site.

59. Another problem affecting the displaced is the disintegration of families and communities. The Special Rapporteur noticed a large number of widows and orphans among the displaced in camps in Thailand. However, numerous communities have remained more or less together in spite of displacement and have maintained many of their cultural traditions. This helps to alleviate to some extent the acute problems of displacement and would no doubt facilitate the process of return to the areas of origin. However,

very few returns to areas of origin seem to be taking place. Continued insecurity coupled with destroyed infrastructure suggest that displaced persons had compelling reasons for wanting to remain in the camps in Thailand.

60. As far as the security situation in the areas of return are concerned, reports continuously reaching the camps speak of, for example, forced labour and portering, arbitrary arrests, detentions and executions by the Myanmar military of persons suspected of sympathizing with insurgents, with no recourse to formal judicial proceedings. In addition, returnees were finding their homes destroyed and their land either burnt or occupied by the army. In such cases, the returnees had no recourse to justice, either because the judicial system did not exist or because it was not functioning independently. The displaced, moreover, had very few resources and means by which to return home. The infrastructure of entire villages had been destroyed and many homes levelled by warfare and looting. Finally, it would seem that the local authorities had no intention of dealing with the assistance and protection problems of the returnees.

61. The Special Rapporteur was told that, for the peasants who had lost their land, either because they had to sell it very cheaply before they fled or because it was destroyed or taken by the army, return is not possible. Where the armed conflict is continuing, return is also not an option.

1. The situation of the dispersed in the jungle

62. Following orders to leave their homes, many villagers avoid moving to relocation sites and usually move first to a nearby rural area or go to the jungle, trying to work in their fields during the day and returning for safety at night. They can remain in hiding for several months as long as they are able to find sufficient food to survive. These villagers live in fear that the soldiers will find them, especially in the dry season. It was reported, for example, that at the start of the dry season in 1998, local army troops shot on site at villagers hiding in the Mi Chaung Theit area.

63. Apart from the lack of security, the lack of food is clearly the main problem facing families living in the jungle. Families supplement their rice porridge by eating wild roots, leaves and fruit. Many families interviewed said that they could not cultivate their crop safely and that when they were discovered their fields and paddies were burned. As a result, without any source of income and without enough food to survive, they try to find their way to Thailand. In addition, people living in the jungle have limited access to health care. They have to rely on an insufficient and informal health-care network in the form of "mobile health teams", which provide medicines and vaccinations. However, it was reported that these mobile teams could not cover all the areas where the displaced hide and live.

2. The situation of the displaced in relocation sites

64. According to testimonies received, relocation sites, as well as the living conditions in the sites, may vary from one place to another. Displaced persons in refugee camps in Thailand describe the sites as either a large,

empty stretch of land surrounded by fences or barbed wire and near a military camp or as the centre of a large village where the army has forced villagers to congregate. The military outpost is normally in the centre of the village.

65. No particular arrangements are made by the authorities to receive the new forced arrivals. There seems to be a food and a health crisis and a general lack of adequate housing and basic services. Villagers have to build their own makeshift huts and provide their own food. Family members living in the relocation sites are often requested to do various tasks for the army. Each family also has to provide one person to work for the army. They perform various duties such as building the fences, cleaning the compound or guarding the site. The interviews did not make clear to what extent facilities for education and access to health care, especially for children, are available. Unemployment is a major problem in the relocation sites. The displaced are used to working their own land and it is difficult to start any sort of work to generate income. When they are able to find work, they are easily exploited. According to testimonies received, many displaced persons, including children, work as daily workers (porters), whose salaries are around US$ 2 per week, for 12-hour working days. Others work in construction. Those who find such jobs are considered to be fortunate, since they have an income.

66. The villagers are not entitled to leave the compound without a pass, for which they have to pay. Their freedom of movement is extremely limited and, in all cases, subject to authorization from the local military battalion. Attempting to flee is said to be interpreted by the authorities as proof of participation in or sympathy with the insurgency and of an intention to report on the abuses committed by the army. Some are required to obtain safe conduct passes or pay high fees at checkpoints for a "permission" to leave. Other sources have reported incidents of women and children being shot at while fleeing in areas near the border with Thailand.

3. Special problems affecting women and children

67. Many of the displaced, in particular women and children, reported that they had been terrorized and subjected to inhuman treatment before taking refuge in Thailand. It was reported that Myanmar soldiers raped and abused women during incursions into the emergency zones or in the relocation sites. In some areas, women who work in the fields still face significant risks of being targeted and victimized.

68. The Special Rapporteur has noted the serious psychological problems facing women and children affected by the crisis. Abuses against women, especially in the course of violent events, reportedly ranged from having seen their children or husband killed to being raped and losing their home and means of subsistence. Interviews held in the course of a short visit to a village revealed that many had suffered from such abuses. It should be mentioned that cultural inhibitions linked to subjects such as sex and the serious social implications of rape and assaults on women compound the problem of lack of outlets for expression and foment deep hatreds.

69. Female-headed households were less able to become self-reliant and were therefore more in need of assistance. In some cases, they were assisted by

other families, for example, in setting up shelters. The numerous children who had been orphaned or separated from their families constituted a particularly vulnerable group. In general, there was a willingness on the part of local families or other displaced persons to adopt the children, at least until their parents could be traced if they were still alive.

70. Some of the most serious problems the displaced and dispersed populations face are in the health domain, largely because of the lack of health services. Children are particularly affected by chronic malnutrition, malaria, diarrhoea and dysentery. The right to health is seriously jeopardized in those circumstances.

71. Displaced children living in the jungle suffer high mortality and malnutrition rates and their flight from their homes often puts them beyond the reach of any assistance or protection. Frequently, displaced children have witnessed the murder of their parents or the destruction of their homes. As a consequence, many children suffer from fear and parents, caught in the day-to-day struggle for survival, often have little energy to devote to caring for them.

72. Rather than attending school, many displaced children have had to help support their families. In any event, many schools are reported to have been destroyed or closed. Public education is officially free; however, many schools are under funded and parents have to pay tuition so that the school can operate. Many displaced children do not speak Burmese and have difficulties in communicating with their teachers. Many children who used to go to school in their native village and learned their native language have to restart their schooling upon arrival in the relocation sites because they are prevented from learning in their own language. This is not only a negation of sound pedagogical principles but a violation of the right to freedom of expression which includes the right to receive and impart information so necessary in the educational field.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

73. The Special Rapporteur has previously reported that Myanmar law and orders of the State Law and Order Restoration Council (SLORC) themselves violate basic freedoms, including the freedoms of expression and association. The Government of Myanmar continues to intimidate its citizens and prevents them from exercising their fundamental rights to freedom of association and expression by prosecuting persons for criminal and treason-related offences. The Special Rapporteur notes that many citizens are still being arrested for peaceful expression of their ideas. As mentioned above, political party leaders and their members are being held, for an undetermined period, against their will and without any charges being brought against them. Moreover, it is evident that the total State domination of the media, together with the existence of a wide range of SLORC orders criminalizing freedom of expression, seriously undermines the exercise of this right as well as the right to freedom of association.

74. Conditions in Myanmar prisons fall short of international standards, i.e. the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

75. The non-acceptance by Myanmar of the customary ICRC procedures for visits to places of detention is highly prejudicial to the amelioration of conditions of detention in Myanmar.

76. The phenomenon of displacement would appear to be limited largely, if not exclusively, to ethnic minorities. The problem is not new and originates mainly from the absence of a political solution dating back to colonial times and before. The ceasefire agreements concluded in recent years are a beginning to a solution but are likely to be fruitless until serious and meaningful measures are taken to engage in a political dialogue which includes the ethnic minorities.

77. The army has been implicated in human rights abuses resulting in displacement. This is partly attributable to the fact that the armed forces constitute the only institution vested with law enforcement. The armed forces are occasionally involved in restoring public order, although no specific training is given for this task and those involved in such operations merely resort to the use of military equipment and military tactics. In such cases a number of provisions of international humanitarian law, such as article 17 of Protocol II Additional to the Geneva Conventions, which prohibits the displacement of civilian populations for reasons related to the conflict, are relevant and must be observed.

78. Impunity remains a very serious problem. Retaliatory massacres of villagers and massive human rights violations of civilians have occurred. In all these instances the right to life and security of the person, in particular of women and children, are violated. In addition, corruption, which is on the rise, is a serious problem particularly as law enforcement and the administration of justice are casualties of military rule.

79. As observed earlier, none of the displaced persons living in Myanmar itself or in Thailand will be able to return home immediately, as their houses and land have been destroyed or others have moved onto their land. Deeply embedded insecurity and fear also prevent return. Where return to the home areas becomes impossible, alternative solutions are required to ensure the basic rights to life, protection of personal security and from cruel, inhuman or degrading treatment, health, education and family unity, among others.

B. Recommendations

80. Since the situation of human rights in Myanmar is worsening and the repression of civil and political rights continues unabated, the Special Rapporteur feels bound to renew the detailed recommendations he made in paragraphs 7 to 97 of his last report to the Commission on Human Rights (E/CN.4/1998/70) and in paragraphs 61 to 63 of his interim report to the General Assembly (A/53/364).

81. In addition, in view of the ever-growing humanitarian crisis in Shan, Karen and Karenni States, in particular, assistance to the displaced and other conflict-affected persons should become a priority for the Government.

82. Because the displaced and other conflict-affected persons have a wide variety of urgent needs, the Government should seek the assistance of the international community, through the United Nations system and its specialized agencies, governmental and intergovernmental organizations, as well as non-governmental organizations, in assessing the nature and extent of the assistance needs and in responding to those needs in a rapid and flexible manner.

83. Clearly, the military solution that has been adopted by the Government in the ethnic areas has become a serious problem rather than a solution. A political solution in the ethnic areas in the context of the political dialogue recommended in paragraphs 79 of the Special Rapporteur's last report to the Commission has become urgent in order to prevent a worsening of the present humanitarian disaster.

Notes

1/ "Forgotten victims of a hidden war: internally displaced Karen in Burma", published by Burma Ethnic Research Group and the Friedrich Naumann Foundation, April 1998.

2/ "Dispossessed: forced relocation and extrajudicial killings in Shan State", Shan Human Rights Foundation, April 1998.

3/ Burmese Border Consortium, "Refugee relief programme - Programme report for the period January to June 1998", July 1998.

4/ Ibid.